

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2007-1347-MLM-E TCEQ ID: RN101979466 CASE NO.: 34432
 RESPONDENTS NAMES: TEX-WAVE INDUSTRIES, L.P., TEX-WAVE MANAGEMENT, L.L.C.,
 DAVID CROFT, AND MONTY GUILLES

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input checked="" type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATIONS OCCURRED: 450 Industrial Avenue, Robstown, Nueces County

TYPE OF OPERATION: Metal galvanizing facility

SMALL BUSINESS: ☒ Yes ☐ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondents expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired June 29, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Gary K. Shiu, Litigation Division, MC R-12, (713) 422-8916
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. Clinton Sims, Waste Enforcement Section, MC 169, (512) 239-6933

TCEQ Regional Contact: Mr. Brad Gënzer, Corpus Christi Regional Office, MC R-14, (361) 825-3106

Respondents: Tex-Wave Industries, L.P., 2802 N. Shoreline Blvd., Corpus Christi, Texas 78402; Tex-Wave Management, L.L.C., 2802 N. Shoreline Blvd., Corpus Christi, Texas 78402; Mr. David Croft, 409 Industrial Avenue, Robstown, Texas 78380; Mr. Monty Guiles, 409 Industrial Avenue, Robstown, Texas 78380

Respondents' Attorneys: Mr. René Rodriquez, Law Offices of René Rodriquez, 433 S. Tancanhua, Corpus Christi, Texas 78401; Mr. Bradley A. Smith, Nicolas, Morris, Gilbreath & Smith, LLP, Attorneys at Law, 5926 South Staples, Suite A-2, Corpus Christi, Texas 78413

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p> <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review </p> <p>Date of Complaint Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: March 7, 2007 and May 31, 2007</p> <p>Date of NOE Relating to this Case: June 15, 2007</p> <p>Background Facts: The EDRP was filed January 29, 2008. The Respondents each filed an answer and the case was referred to SOAH. The EDFARP was filed May 21, 2008. Settlement was achieved and a signed Agreed Order was received January 21, 2009.</p> <p>Current Compliance Status: Not yet in compliance.</p> <p>MLM:</p> <ol style="list-style-type: none"> Failed to have hydrochloric acid in an enclosed building [30 TEX. ADMIN. CODE § 106.375(2)(B)]. Failed to update the Notice of Registration ("NOR") to reflect current site conditions [30 TEX. ADMIN. CODE § 335.6(c)]. Failed to maintain all records for hazardous and industrial waste activities, failing to maintain copies of each manifest for a minimum of three years from the date of shipment, and failing to maintain records for land disposal restrictions [30 TEX. ADMIN. CODE §§ 335.9(a)(1), 335.13(i), 335.431(c) and 40 CFR §§ 262.40(a) and 268.7(a)(8)]. Failed to comply with hazardous waste tank requirements and to conduct adequate tank closure [30 TEX. ADMIN. CODE §§ 335.69(a)(1)(B), 335.112(a)(9) and 40 CFR §§ 262.34(a)(1)(ii) and 265.197]. 	<p>Total Assessed: \$38,640</p> <p>Total Deferred: \$0</p> <p> <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset </p> <p>Total Paid/Due to General Revenue: \$1,840/\$36,800</p> <p>The Respondents paid \$1,840 of the administrative penalty. The remaining amount of \$36,800 shall be payable in 23 monthly payments of \$1,600 each.</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor </p> <p>Person Compliance History Classifications <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor </p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondents shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days: <ol style="list-style-type: none"> Submit updates to the Notice of Registration ("NOR") to include the date in which operations ceased; Maintain all records for hazardous and industrial waste activities, land disposal restrictions and retain copies of each manifest for a minimum of three years from the date of shipment; and Notify the TCEQ concerning closure activities for the 8 tanks. Within 60 days: <ol style="list-style-type: none"> Remove and properly dispose of approximately 370,000 gallons of acid and caustic waste found in the seven tanks at the Facility; and Close the 8 tanks at the Facility. Within 75 days, submit written certification demonstrating compliance with these Ordering Provisions.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

TCEQ
DATESAssigned
PCW

25-Jun-2007

15-Aug-2007

Screening

5-Aug-2007

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Tex-Wave Industries, L.P., Tex-Wave Management, L.L.C., David Croft, and Monty Guiles
 Reg. Ent. Ref. No. RN101979466
 Facility/Site Region 14-Corpus Christi Major/Minor Source Major

CASE INFORMATION

Enf./Case ID No. 34432
 Docket No. 2007-1347-MLM-E
 Media Program(s) Industrial and Hazardous Waste
 Multi-Media Air
 Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

No. of Violations 4
 Order Type 1660
 Enf. Coordinator Clinton Sims
 EC's Team EnforcementTeam 7

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$27,600

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History -10% Enhancement Subtotals 2, 3, & 7 -\$2,760

Notes Reduction due to high performer classification.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5 \$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes The Respondent does not meet the good faith criteria.

50% Enhancement*

Subtotal 6 \$13,800

Total EB Amounts \$47,713
 Approx. Cost of Compliance \$946,300

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal \$38,640

OTHER FACTORS AS JUSTICE MAY REQUIRE

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount \$38,640

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$38,640

DEFERRAL

Reduction

Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY

\$38,640

Screening Date 5-Aug-2007

Docket No. 2007-1347-MLM-E

PCW

Respondent Tex-Wave Industries, L.P., Tex-Wave Management, L.L.

Policy Revision 2 (September 2002)

Case ID No. 34432

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101979466

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Clinton Sims

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance
History
Notes

Reduction due to high performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) -10%

Screening Date 5-Aug-2007		Docket No. 2007-1347-MLM-E		PCW																	
Respondent Tex-Wave Industries, L.P., Tex-Wave Management, L.L.C., Davi		<i>Policy Revision 2 (September 2002)</i>																			
Case ID No. 34432		<i>PCW Revision June 26, 2007</i>																			
Reg. Ent. Reference No. RN101979466																					
Media [Statute] Industrial and Hazardous Waste																					
Enf. Coordinator Clinton Sims																					
Violation Number		<div style="border: 1px solid black; padding: 2px; width: 100px; text-align: center;">1</div>																			
Rule Cite(s)		<div style="border: 1px solid black; padding: 2px; width: 100%; text-align: center;">30 Tex. Admin. Code § 106.375(2)(B)</div>																			
Violation Description		<div style="border: 1px solid black; padding: 5px;">Failed to have hydrochloric acid in an enclosed building, as documented during an investigation conducted on March 7, 2007. Specifically, three acid tanks containing hydrochloric acid were located at the east end of the building which is not enclosed.</div>																			
Base Penalty				<div style="border: 1px solid black; padding: 2px; width: 100px; text-align: center;">\$10,000</div>																	
>> Environmental, Property and Human Health Matrix																					
OR	<table border="1" style="margin: auto; border-collapse: collapse;"> <tr> <td></td> <th colspan="3">Harm</th> </tr> <tr> <td>Release</td> <th>Major</th> <th>Moderate</th> <th>Minor</th> </tr> <tr> <td>Actual</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> <tr> <td>Potential</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td style="text-align: center;">x</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> </table>					Harm			Release	Major	Moderate	Minor	Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Potential	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	x	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Percent <div style="border: 1px solid black; padding: 2px; width: 50px; text-align: center;">25%</div>
		Harm																			
	Release	Major	Moderate	Minor																	
	Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																	
Potential	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	x	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																		
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	Falsification	Major	Moderate	Minor																	
Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																	
Matrix Notes	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.																				
Adjustment				<div style="border: 1px solid black; padding: 2px; width: 100px; text-align: center;">\$7,500</div>																	
				<div style="border: 1px solid black; padding: 2px; width: 100px; text-align: center;">\$2,500</div>																	
Violation Events																					
Number of Violation Events		<div style="border: 1px solid black; padding: 2px; width: 40px; text-align: center;">2</div>	Number of violation days																		
		<div style="border: 1px solid black; padding: 2px; width: 40px; text-align: center;">151</div>																			
<i>mark only one with an x</i>	<table border="1" style="margin: auto; border-collapse: collapse;"> <tr><td>daily</td><td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td></tr> <tr><td>monthly</td><td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td></tr> <tr><td>quarterly</td><td style="text-align: center;">x</td></tr> <tr><td>semiannual</td><td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td></tr> <tr><td>annual</td><td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td></tr> <tr><td>single event</td><td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td></tr> </table>		daily	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	monthly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	quarterly	x	semiannual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	annual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	single event	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Violation Base Penalty <div style="border: 1px solid black; padding: 2px; width: 100px; text-align: center;">\$5,000</div>						
	daily	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	monthly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	quarterly	x																			
	semiannual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	annual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
single event	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																				
Two quarterly events are recommended from the investigation date of March 7, 2007 to the screening date of August 5, 2007.																					
Economic Benefit (EB) for this violation			Statutory Limit Test																		
Estimated EB Amount		<div style="border: 1px solid black; padding: 2px; width: 100px; text-align: center;">\$385</div>	Violation Final Penalty Total																		
			<div style="border: 1px solid black; padding: 2px; width: 100px; text-align: center;">\$7,000</div>																		
			This violation Final Assessed Penalty (adjusted for limits)																		
			<div style="border: 1px solid black; padding: 2px; width: 100px; text-align: center;">\$7,000</div>																		

Economic Benefit Worksheet

Respondent Tex-Wave Industries, L.P., Tex-Wave Management, L.L.C., David Croft, and Monty Guiles

Case ID No. 34432

Reg. Ent. Reference No. RN101979466

Media Industrial and Hazardous Waste

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$5,000	7-Mar-2007	11-Apr-2008	1.1	\$18	\$366	\$385
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to keep tanks in an enclosed building. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$385

Screening Date 5-Aug-2007

Docket No. 2007-1347-MLM-E

PCW

Respondent Tex-Wave Industries, L.P., Tex-Wave Management, L.L.C., David

Policy Revision 2 (September 2002)

Case ID No. 34432

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101979466

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Clinton Sims

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 335.6(c)

Violation Description Failed to update the Notice of Registration (NOR), as documented during an investigation conducted on March 7, 2007. Specifically, the Respondent did not update the NOR to include the inactive status of the facility. The facility is required to document and notify the agency within 90 days of any such changes.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

More than 70% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

151 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$16

Violation Final Penalty Total \$140

This violation Final Assessed Penalty (adjusted for limits) \$140

Economic Benefit Worksheet

Respondent Tex-Wave Industries, L.P., Tex-Wave Management, L.L.C., David Croft, and Monty Guiles

Case ID No. 34432

Reg. Ent. Reference No. RN101979466

Media Industrial and Hazardous Waste

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$300	7-Mar-2007	11-Apr-2008	1.1	\$16	n/a	\$16

Notes for DELAYED costs

Estimated cost to submit updates to the NOR. The Date Required is the investigation date and the Final Date is the Estimated Date of Compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$300

TOTAL

\$16

Screening Date 5-Aug-2007		Docket No. 2007-1347-MLM-E		PCW		
Respondent Tex-Wave Industries, L.P., Tex-Wave Management, L.L.C., David		<i>Policy Revision 2 (September 2002)</i>				
Case ID No. 34432		<i>PCW Revision June 26, 2007</i>				
Reg. Ent. Reference No. RN101979466						
Media [Statute] Industrial and Hazardous Waste						
Enf. Coordinator Clinton Sims						
Violation Number		<div style="border: 1px solid black; padding: 2px; text-align: center;">3</div>				
Rule Cite(s)		<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code §§ 335.9(a)(1), 335.13(i), 335.431(c), 40 Code of Federal Regulations §§ 262.40(a) and 268.7(a)(8)</div>				
Violation Description		<div style="border: 1px solid black; padding: 5px;">Failed to maintain all records for hazardous and industrial waste activities, failed to maintain copies of each manifest for a minimum of three years from the date of shipment and failed to maintain records for land disposal restrictions, as documented during an investigation conducted on March 7, 2007. Specifically, at the time of the investigation hazardous waste determination documentation, annual waste summary reports, source reduction/waste minimization plan, solid waste management unit inspection records, waste manifests, and land disposal restrictions documentation were not available.</div>				
Base Penalty					<div style="border: 1px solid black; padding: 2px; text-align: center;">\$10,000</div>	
>> Environmental, Property and Human Health Matrix						
OR	Release		Harm		Percent	
			Major	Moderate		Minor
	Actual	Potential	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>		<div style="border: 1px solid black; width: 40px; height: 15px;"></div>
					<div style="border: 1px solid black; padding: 2px;">0%</div>	
>> Programmatic Matrix						
	Falsification	Major	Moderate	Minor	Percent	
	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	x	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>		
Matrix Notes					<div style="border: 1px solid black; padding: 2px;">25%</div>	
100% of the rule requirement was not met.						
Adjustment					<div style="border: 1px solid black; padding: 2px; text-align: center;">\$7,500</div>	
					<div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,500</div>	
Violation Events						
Number of Violation Events		<div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>	Number of violation days			
		<div style="border: 1px solid black; padding: 2px; text-align: center;">151</div>				
<i>mark only one with an x</i>	daily	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Violation Base Penalty			
	monthly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>				
	quarterly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>				
	semiannual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>				
	annual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>				
	single event	x				
One single event is recommended.						
Economic Benefit (EB) for this violation			Statutory Limit Test			
Estimated EB Amount		<div style="border: 1px solid black; padding: 2px; text-align: center;">\$55</div>	Violation Final Penalty Total		<div style="border: 1px solid black; padding: 2px; text-align: center;">\$3,500</div>	
This violation Final Assessed Penalty (adjusted for limits)					<div style="border: 1px solid black; padding: 2px; text-align: center;">\$3,500</div>	

Economic Benefit Worksheet

Respondent Tex-Wave Industries, L.P., Tex-Wave Management, L.L.C., David Croft, and Monty Guiles

Case ID No. 34432

Reg. Ent. Reference No. RN101979466

Media Industrial and Hazardous Waste

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$1,000	7-Mar-2007	11-Apr-2008	1.1	\$55	n/a	\$55
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain record keeping requirements for waste activities, manifests, and land disposal requirements. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$55

Screening Date 5-Aug-2007 Respondent Tex-Wave Industries, L.P., Tex-Wave Management, L.L.C., David Case ID No. 34432 Reg. Ent. Reference No. RN101979466 Media [Statute] Industrial and Hazardous Waste Enf. Coordinator Clinton Sims Violation Number <input type="text" value="4"/> Rule Cite(s) 30 Tex. Admin. Code §§ 335.69(a)(1)(B), 335.112(a)(9) and 40 Code of Federal Regulations §§ 262.34(a)(1)(ii) and 265.197 Violation Description Failed to comply with hazardous waste tank requirements and to conduct adequate tank closure, as documented during an investigation conducted on May 31, 2007. Specifically, the Respondent had 90 days from the date operations at the facility ceased to remove approximately 370,000 gallons of acid and caustic waste found in seven of the eight tanks at the facility. In addition the Respondent failed to properly close the eight tanks at the facility.	Docket No. 2007-1347-MLM-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision June 26, 2007</i>														
Base Penalty <input style="width: 100px;" type="text" value="\$10,000"/>															
>> Environmental, Property and Human Health Matrix															
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;"></th> <th style="width: 15%;">Major</th> <th style="width: 15%;">Harm Moderate</th> <th style="width: 15%;">Minor</th> <th style="width: 40%;"></th> </tr> </thead> <tbody> <tr> <td>Release Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="text-align: right; vertical-align: middle;">Percent <input style="width: 50px;" type="text" value="25%"/></td> </tr> <tr> <td>Potential</td> <td><input type="text"/></td> <td style="text-align: center;">x</td> <td><input type="text"/></td> </tr> </tbody> </table>		Major	Harm Moderate	Minor		Release Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input style="width: 50px;" type="text" value="25%"/>	Potential	<input type="text"/>	x	<input type="text"/>
	Major	Harm Moderate	Minor												
Release Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input style="width: 50px;" type="text" value="25%"/>											
Potential	<input type="text"/>	x	<input type="text"/>												
>> Programmatic Matrix															
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;"></th> <th style="width: 15%;">Major</th> <th style="width: 15%;">Moderate</th> <th style="width: 15%;">Minor</th> <th style="width: 40%;"></th> </tr> </thead> <tbody> <tr> <td>Falsification</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td style="text-align: right;">Percent <input style="width: 50px;" type="text" value="0%"/></td> </tr> </tbody> </table>		Major	Moderate	Minor		Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input style="width: 50px;" type="text" value="0%"/>				
	Major	Moderate	Minor												
Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input style="width: 50px;" type="text" value="0%"/>											
Matrix Notes	<div style="border: 1px solid black; padding: 5px; min-height: 40px;"> Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation. </div>														
Adjustment <input style="width: 100px;" type="text" value="\$7,500"/>															
<input style="width: 100px;" type="text" value="\$2,500"/>															
Violation Events															
<div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 45%;"> <p>Number of Violation Events <input style="width: 50px;" type="text" value="8"/></p> <div style="display: flex; align-items: center;"> <div style="width: 100px; font-size: 0.8em;"> mark only one with an x </div> <table border="1" style="width: 150px; border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td style="text-align: center;">x</td></tr> </table> </div> </div> <div style="width: 45%;"> <p><input style="width: 50px;" type="text" value="66"/> Number of violation days</p> <p style="text-align: right; padding-top: 20px;">Violation Base Penalty <input style="width: 100px;" type="text" value="\$20,000"/></p> </div> </div>		daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	x		
daily	<input type="text"/>														
monthly	<input type="text"/>														
quarterly	<input type="text"/>														
semiannual	<input type="text"/>														
annual	<input type="text"/>														
single event	x														
<div style="border: 1px solid black; padding: 10px; width: fit-content; margin: 0 auto;"> Eight single events are recommended, one per tank. </div>															
Economic Benefit (EB) for this violation															
<p>Estimated EB Amount <input style="width: 150px;" type="text" value="\$47,258"/></p>															
Statutory Limit Test															
<p>Violation Final Penalty Total <input style="width: 100px;" type="text" value="\$28,000"/></p>															
This violation Final Assessed Penalty (adjusted for limits) <input style="width: 100px;" type="text" value="\$28,000"/>															

Economic Benefit Worksheet

Respondent Tex-Wave Industries, L.P., Tex-Wave Management, L.L.C., David Croft, and Monty Guiles

Case ID No. 34432

Reg. Ent. Reference No. RN101979466

Media Industrial and Hazardous Waste

Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$940,000	10-Apr-2007	11-Apr-2008	1.0	\$47,258	n/a	\$47,258

Notes for DELAYED costs

Estimated cost to remove and properly dispose of approximately 370,000 gallons of acid and caustic waste in the seven tanks, at \$2.00 a gallon and to properly close down all eight tanks. The Date Required is 90 days after the date operations ceased and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$940,000

TOTAL

\$47,258

Compliance History Report

Customer/Respondent/Owner-Operator: CN603170671 TEX WAVE INDUSTRIES LP Classification: HIGH Rating: 0.00
 Regulated Entity: RN101979466 TWI GALVANIZING Classification: HIGH Site Rating: 0.00
 ID Number(s): AIR NEW SOURCE PERMITS ACCOUNT NUMBER NE0499W
 AIR NEW SOURCE PERMITS PERMIT 50274
 INDUSTRIAL AND HAZARDOUS WASTE ID NUMBER 87740
 GENERATION
 INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXR000064535
 GENERATION
 INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # 87740
 GENERATION (SWR)
 Location: 450 INDUSTRIAL AVE, ROBSTOWN, TX, 78380
 TCEQ Region: REGION 14 - CORPUS CHRISTI
 Date Compliance History Prepared: May 22, 2009
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: May 22, 2004 to May 22, 2009
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Clinton Sims Phone: 239 - 6933

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator?

OWNOPR	TEX WAVE INDUSTRIES LP
OWNOPR	Meecorp Capital Markets LLC
OPR	Tex-Wave Management, LLC
4. If Yes, who was/were the prior owner(s)/operator(s) ?

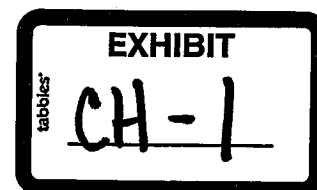
OWN	Tex-Wave Industries LLC
-----	-------------------------
5. When did the change(s) in owner or operator occur?

12/05/2006	OWN	Tex-Wave Industries LLC
------------	-----	-------------------------
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	01/10/2006	(440274)
N/A		
2	11/02/2007	(594953)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A



F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

Compliance History Report

Customer/Respondent/Owner-Operator: CN603242256 Tex-Wave Management, LLC Classification: HIGH Rating: 0.00
 Regulated Entity: RN101979466 TWI GALVANIZING Classification: HIGH Site Rating: 0.00
 ID Number(s): AIR NEW SOURCE PERMITS ACCOUNT NUMBER NE0499W
 AIR NEW SOURCE PERMITS PERMIT 50274
 INDUSTRIAL AND HAZARDOUS WASTE ID NUMBER 87740
 GENERATION
 INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXR000064535
 GENERATION
 INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # 87740
 GENERATION (SWR)
 Location: 450 INDUSTRIAL AVE, ROBSTOWN, TX, 78380
 TCEQ Region: REGION 14 - CORPUS CHRISTI
 Date Compliance History Prepared: May 22, 2009
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: May 22, 2004 to May 22, 2009
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Clinton Sims Phone: 239 - 6933

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator?

OWNOPR	TEX WAVE INDUSTRIES LP
OWNOPR	Meecorp Capital Markets LLC
OPR	Tex-Wave Management, LLC
4. If Yes, who was/were the prior owner(s)/operator(s) ?

OWN	Tex-Wave Industries LLC
-----	-------------------------
5. When did the change(s) in owner or operator occur?

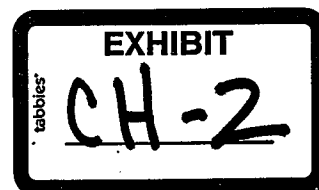
12/05/2006	OWN	Tex-Wave Industries LLC
------------	-----	-------------------------
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	11/02/2007	(594953)
---	------------	----------

 N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A



F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

Compliance History Report

Customer/Respondent/Owner-Operator: CN603196544 CROFT, DAVID D Classification: HIGH Rating: 0.00

Regulated Entity: RN101979466 TWI GALVANIZING Classification: HIGH Site Rating: 0.0

ID Number(s): AIR NEW SOURCE PERMITS ACCOUNT NUMBER NE0499W
 AIR NEW SOURCE PERMITS PERMIT 50274
 INDUSTRIAL AND HAZARDOUS WASTE ID NUMBER 87740
 GENERATION
 INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXR000064535
 GENERATION
 INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # 87740
 GENERATION (SWR)

Location: 450 INDUSTRIAL AVE, ROBSTOWN, TX, 78380

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: May 22, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 22, 2004 to May 22, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Clinton Sims Phone: 239 - 6933

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator?

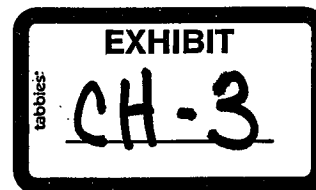
OWNOPR	TEX WAVE INDUSTRIES LP
OWNOPR	Meecorp Capital Markets LLC
OPR	Tex-Wave Management, LLC
4. If Yes, who was/were the prior owner(s)/operator(s) ?

OWN	Tex-Wave Industries LLC
-----	-------------------------
5. When did the change(s) in owner or operator occur?

12/05/2006	OWN	Tex-Wave Industries LLC
------------	-----	-------------------------
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 11/02/2007 (594953)
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A



F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603196551	GUILES, MONTY	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN101979466	TWI GALVANIZING	Classification: HIGH	Site Rating: 0.0
ID Number(s):	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	NE0499W	
	AIR NEW SOURCE PERMITS	PERMIT	50274	
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	ID NUMBER	87740	
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000064535	
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	87740	
Location:	450 INDUSTRIAL AVE, ROBSTOWN, TX, 78380			
TCEQ Region:	REGION 14 - CORPUS CHRISTI			
Date Compliance History Prepared:	May 22, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	May 22, 2004 to May 22, 2009			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:				
Name:	Clinton Sims	Phone:	239 - 6933	

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator?

OWNOPR	TEX WAVE INDUSTRIES LP
OWNOPR	Meecorp Capital Markets LLC
OPR	Tex-Wave Management, LLC
4. If Yes, who was/were the prior owner(s)/operator(s) ?

OWN	Tex-Wave Industries LLC
-----	-------------------------
5. When did the change(s) in owner or operator occur?

12/05/2006	OWN	Tex-Wave Industries LLC
------------	-----	-------------------------
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A
- B. Any criminal convictions of the state of Texas and the federal government.

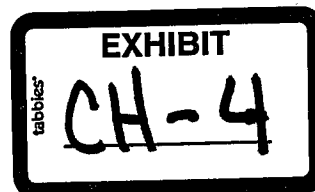
N/A
- C. Chronic excessive emissions events.

N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	11/02/2007	(594953)
---	------------	----------

N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

N/A



F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING TEX-WAVE
INDUSTRIES, L.P., TEX-WAVE
MANAGEMENT, L.L.C., DAVID
CROFT, AND MONTY GUILLES;
RN101979466

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-1347-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Tex-Wave Industries, L.P., Tex-Wave Management, L.L.C., David Croft, and Monty Guiles (collectively referred to as the "Respondents") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE chs. 361 and 382. The Executive Director of the TCEQ; represented by the Litigation Division; Tex-Wave Industries, L.P.; represented by Bradley Smith of Nicolas, Morris, Gilbreath, & Smith, LLP; and Tex-Wave Management, L.L.C., David Croft and Monty Guiles; represented by Rene Rodriquez of the Law Offices of Rene Rodriquez, appear before the Commission and together stipulate that:

1. Tex-Wave Industries, L.P. and Tex-Wave Management, L.L.C. owned and operated, and David Croft and Monty Guiles operate, a metal galvanizing facility located at 450 Industrial Avenue, Robstown, Nueces County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE chs. 382 and 361 and TCEQ rules.
3. The Commission and Respondents agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondents are subject to the Commission's jurisdiction.
4. Respondents received notice of the violations alleged in Section II ("Allegations") on or about June 20, 2007.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of thirty-eight thousand six hundred forty dollars (\$38,640.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Respondents are jointly and severally liable for the administrative penalty of thirty-eight thousand six hundred forty dollars (\$38,640.00). Respondents have paid one thousand eight hundred forty dollars (\$1,840.00) of the administrative penalty. The remaining amount of thirty-six thousand eight hundred dollars (\$36,800.00) of the administrative penalty shall be payable in 23 monthly payments of one thousand six hundred dollars (\$1,600.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondents fail to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondents' failure to meet the payment schedule of this Agreed Order constitutes the failure by the Respondents to timely and satisfactorily comply with all of the terms of this Agreed Order.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Respondents have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondents have not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

Respondents are alleged to have violated:

1. 30 TEX. ADMIN. CODE § 106.375(2)(B) by failing to have hydrochloric acid in an enclosed building. Specifically, three acid tanks containing hydrochloric acid were located at the east end of a non-enclosed building, in which the tanks were opened to the atmosphere and lacked any type of emission control, as documented on March 7, 2007.
2. 30 TEX. ADMIN. CODE § 335.6(c) by failing to update the Notice of Registration ("NOR") to reflect current site conditions. Specifically, Respondents did not update the NOR to include the inactive status of the Facility, as documented on March 7, 2007. The Facility has a continuing obligation to immediately document and notify the agency within 90 days of any such changes in the status of the Facility.
3. 30 TEX. ADMIN. CODE §§ 335.9(a)(1), 335.13(i), 335.431(c) and 40 CODE OF FEDERAL REGULATIONS §§ 262.40(a) and 268.7(a)(8) by failing to maintain all records for hazardous and industrial waste activities, failing to maintain copies of each manifest for a minimum of three years from the date of shipment, and failing to maintain records for land disposal restrictions. Specifically, hazardous waste determination documentation, annual waste summary reports, source reduction/waste minimization plan, solid waste management unit inspection records, waste manifests, as well as land disposal restrictions documentation were unavailable, as documented on March 7, 2007.
4. 30 TEX. ADMIN. CODE §§ 335.69(a)(1)(B), 335.112(a)(9) and 40 CODE OF FEDERAL REGULATIONS §§ 262.34(a)(1)(ii) and 265.197 by failing to comply with hazardous waste tank requirements and to conduct adequate tank closure. Specifically, Respondents had 90 days from the date the Facility ceased operations to remove approximately 370,000 gallons of acid and caustic waste found in seven of the eight tanks at the Facility. In addition, Respondents failed to properly close all eight tanks at the Facility, as documented on May 31, 2007.

III. DENIALS

Respondents generally deny each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Respondents pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Respondents' compliance with all the terms and conditions set forth in this Agreed Order

resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Tex-Wave Industries, L.P., Tex-Wave Management, L.L.C., David Croft, and Monty Guiles, Docket No. 2007-1347-MLM-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Tex-Wave Industries, L.P., Tex-Wave Management, L.L.C., David Croft, and Monty Guiles are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.

3. Respondents shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, Respondents shall:

- i. Submit updates to the Notice of Registration ("NOR") to include the date in which operations ceased, in accordance with 30 TEX. ADMIN. CODE § 335.6(c). Submit copies of the NOR to the addresses listed in Ordering Provision 3.c. and submit the updated NOR to:

Registration and Reporting Section
Permitting and Remediation Support Division, MC 129
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- ii. Maintain all records for hazardous and industrial waste activities, land disposal restrictions and retain copies of each manifest for a minimum of three years from the date of shipment. The records should include hazardous waste determination documentation, annual waste summary reports, source reduction/waste minimization plan, and solid waste management unit inspection records, in accordance with 30 TEX. ADMIN. CODE §§ 335.9(a)(1), 335.13(i), 335.431(c), 40 CODE OF FEDERAL REGULATIONS §§ 262.40(a) and 268.7(a)(8);

- iii. Notify the TCEQ concerning closure activities for the 8 tanks, in accordance with 30 TEX. ADMIN. CODE § 335.112(a)(9) and 40 CODE FEDERAL REGULATIONS § 265.197. Submit notification to the addresses listed in Ordering Provision 3.c.;
- b. Within 60 days after the effective date of this Agreed Order, Respondents shall:
 - i. Remove and properly dispose of approximately 370,000 gallons of acid and caustic waste found in the seven tanks at the Facility, in accordance with 30 TEX. ADMIN. CODE § 335.69(a)(1)(B) and 40 CODE OF FEDERAL REGULATIONS § 262.34(a)(1)(ii);
 - ii. Close the 8 tanks at the Facility, in accordance with 30 TEX. ADMIN. CODE § 335.112(a)(9) and 40 CODE FEDERAL REGULATIONS § 265.197; and
- c. Within 75 days after the effective date of this Agreed Order, Respondents shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions 3.a. and 3.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

With a copy to:

Brad Genzer, Waste Section Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Unit 5839
Corpus Christi, Texas 78412-5839

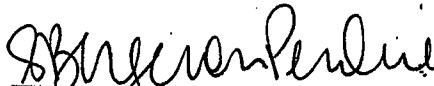
4. The provisions of this Agreed Order shall apply to and be binding upon Respondents. Respondents are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If Respondents fail to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondents' failure to comply is not a violation of this Agreed Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within seven days after at least one respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against Respondents in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
9. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Respondents, or three days after the date on which the Commission mails notice of the Order to Respondents, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Tex-Wave Industries, L.P., Tex-Wave Management, L.L.C.,
David Croft, and Monty Gulles
DOCKET NO. 2007-1347-MLM-E
Page 7

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

6/8/2009

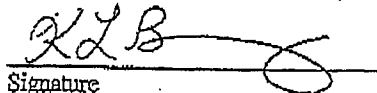
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Tex-Wave Industries, L.P.'s compliance history;
- Greater scrutiny of any permit applications submitted by Tex-Wave Industries, L.P.;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Tex-Wave Industries, L.P.;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Tex-Wave Industries, L.P.; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

Kenneth L. Berry

Name (Printed or typed)

Authorized representative of
Tex-Wave Industries, L.P.

1/20/09
Date

Manager

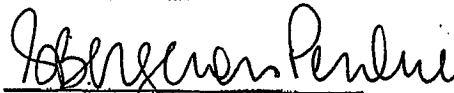
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Tex-Wave Industries, L.P., Tex-Wave Management, L.L.C.,
David Croft, and Monty Guller
DOCKET NO. 2007-1347-MLM-R
Page 8

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

6/8/2009

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- * A negative impact on Tex-Wave Management, L.L.C.'s compliance history;
- * Greater scrutiny of any permit applications submitted by Tex-Wave Management, L.L.C.;
- * Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- * Increased penalties in any future enforcement actions against Tex-Wave Management, L.L.C.;
- * Automatic referral to the Attorney General's Office of any future enforcement actions against Tex-Wave Management, L.L.C.; and
- * TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

1/20/09

Date

Kenneth L. Berry

Name (Printed or typed)

Authorized representative of

Tex-Wave Management, L.L.C.

Manager

Title

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

6/8/2009

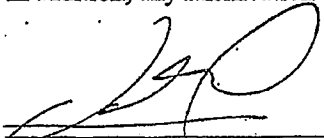
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- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

David Croft

Name (Printed or typed)
David Croft

11/21/09

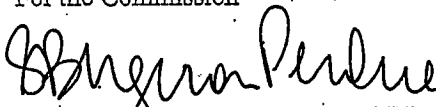
Date

Title
Former President and Director
of Tex-Wave Industries, LP
and President and Officer of
Tex-Wave Management, LLC

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

6/2/2009

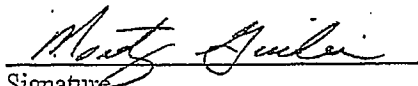
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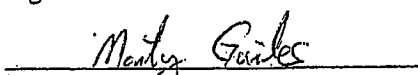
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- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature


Name (Printed or typed)

Monty Guiles

January 21, 2009
Date

Title

Former Manager and Officer
of Tex-Wave Industries, LP
and Director and Manager of
Tex-Wave Management, LLC